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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,957	12/11/2003	David S. Breed	ATI-371	8145

22846 7590 03/09/2005
BRIAN ROFFE, ESQ
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EXAMINER

TO, TOAN C

ART UNIT PAPER NUMBER

3616

DATE MAILED: 03/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/733,957

Applicant(s)

BREED ET AL.

Examiner

Toan C To

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 60,62 and 64-68 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 60,62 and 64-68 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☒ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Priority

1. Applicant's claiming the benefit of earlier filing date under 35 U.S.C. 120 is acknowledged. However, applicant is not entitled to the earlier filing date (June 7, 1995) of U.S. Pat No. 5,822,707 (See explanations under "Response to Arguments").

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 60, 62-66 rejected under 35 U.S.C. 102(b) as being anticipated by Fortune et al (US. 6,101,436).

As to claims 60, and 65-66, Fortune et al disclose an apparatus for sensing pressure applied to a seat by an occupant of the seat and for controlling deployment of an airbag, comprising: a bladder (20) having a chamber; the bladder adapted to be arranged in a seat portion of the seat (12); a control module (50), and a pressure sensor (26) for measuring a pressure in the chamber, the pressure sensor generating a signal on the measured pressure in the chamber and providing the signal to the control module (50), wherein the control module is arranged to control deployment of the airbag (see column 2, lines 65-68); wherein the chamber has multiple sections (74) in flow communication with one another.

As to claims 62, 64, and 67-68, Fortune et al disclose a method for controlling an occupant restraint device arranged to protect an occupant in a vehicle in a crash involving the vehicle, comprising the steps of: arranging a bladder (20) defining a chamber in a seat (12) portion of a seat in the vehicle; measuring a pressure (26) in the chamber; providing a signal based on the measured pressure in the chamber to the control module (50), and controlling deployment airbag by means of the control module (see column 2, lines 65-68); and a pressure control device (22, 52) which controls pressure in the chamber by means of the control module.

Response to Arguments

4. Applicant's arguments filed December 16, 2004 have been fully considered but they are not persuasive. The reference as to Fortune et al (U.S. 6,101,436) is still available as prior art of record.

In response to applicant's arguments that the instant application is fully supported by the parent application Ser. No. 08/474,783, now U.S. Patent No. 5,822,707 ('707 patent), and applicant's conclusion that applicant is entitled of benefit of an earlier filing date (June 7, 2005) of '707 patent, and therefore Fortune et al should not be available as prior art against the patentability of the invention as claimed. The examiner respectfully disagrees with the following reasons:

(1) In order to entitle benefit of an earlier filing date (June 7, 1995) of U.S. Pat No. 5,822,707, then the invention of the instant application must be fully supported by the '707 patent in the manner provided by the first paragraph of section 112.

Since 35 U.S.C 120 states that:

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An application for patent for an invention disclosed in the manner provided by the first paragraph of section 112 of this title in an application previously filed in the United States

In reviewing the invention of the instant application and the invention of the '707 patent, the examiner notes that the instant application is not fully supported by the '707 patent in the manner provided by the first paragraph of section 112.

With respect to independent claims 60 and 65:

The '707 patent discloses at least two different embodiments, first embodiment is represented by figures 2 and second embodiment is represented by figure 5; wherein, the first embodiment is directed to deployment of the airbag 900 is controlled by the module 150 based upon receiving signal from the weight sensor 200; and the second embodiment is directed to a seat having an air mattress containers 515, 518, and a pressured transducer 560 for monitoring the pressure within the containers 515 and 518 and for inputting the pressure information to the control module 150 which in turn determine an appropriate stiffness for the seat and adjust the stiffness of the seat such that improving seating comfort. In this case, the '707 patent does not reasonably provide enablement for "measured pressure in said chamber and providing said signal to said control module, wherein said control module is arranged to control deployment of the airbag" as claims in claim 60 of the instant application. The '707 patent does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention commensurate in scope with the claim 60 of the instant application, since, in the '707 patent, the control module 150 controlled deployment of the airbag based on the signal receiving from the weight sensor 200 but

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not based on the measured pressure signal receiving from the pressure sensor in the container as called out in claim 60.

In response to applicant's chart for proving that the claims of the instant application are fully support by the '707 patent, it is noted that each portion of the claims as separated by applicant on the left side of the chart corresponds to each location in the '707 patent as pointed out by applicant on the right side of the chart. However, when taking the scope of the claims as a whole, the '707 patent fails to provide support for the scope of the claims of the instant application.

With respect to independent claim 62:

The '707 patent does not reasonably provide enablement for "providing a signal based on the measured pressure in said chamber to a control module and controlling deployment of the airbag by means of the control module" with similar reasons as explained above.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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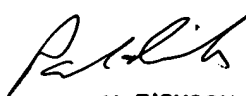
extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Toan C To whose telephone number is (703) 306-5951. The examiner can normally be reached on Mon-Fri (8:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on (703) 308-2089. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TTo
February 17, 2005

 3/4/05
PAUL N. DICKSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600